

21 C.J.S. Courts § 323

Corpus Juris Secundum | May 2023 Update

Courts

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IX. Court Commissioners

C. Procedural Matters

§ 323. Appeal after review or revision of court commissioner actions

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

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A commissioner's ruling will not be reviewed directly by an appellate court, but an aggrieved party must first move the court in which the commissioner serves to revise the commissioner's ruling and then may seek review by the appellate court.

A commissioner's ruling will not be reviewed directly by an appellate court;¹ rather, a party must first move the court in which the commissioner serves to revise or modify the commissioner's ruling and then may seek review by the appellate court of the court's decision on the motion.² In other words, once the court in which the commissioner serves makes a decision on revision of the commissioner's decision, the appeal is from the court's decision, not the commissioner's.³

The record of the court in which the commissioner serves must clearly indicate to the appellate court that it has independently reviewed the evidence and findings of the commissioner to reach an informed decision.⁴ A decree approving a commissioner's report will be affirmed on appeal unless the decree is plainly wrong or without evidence to support it.⁵

CUMULATIVE SUPPLEMENT

Cases:

Order granting summary judgment in favor of plaintiff cotenant and appointing commissioner to partition and evaluate property was not a final, appealable order in partition action, where court ordered commissioner to report back to trial court, and, at time of appeal, commissioner had not reported back to court, court had not reviewed or approved commissioner's report, parties had

not decided whether to buy property at its appraised value, and writ of partition had not been entered. R.C. § 2505.02. [Haynes v. Haynes](#), 2017-Ohio-49, 80 N.E.3d 1105 (Ohio Ct. App. 5th Dist. Licking County 2017).

[END OF SUPPLEMENT]

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Footnotes

- 1 Wash.—[Fox v. Sunmaster Products, Inc.](#), 115 Wash. 2d 498, 798 P.2d 808 (1990).
Wis.—[State v. Trongeau](#), 135 Wis. 2d 188, 400 N.W.2d 12 (Ct. App. 1986).
- 2 Wash.—[Fox v. Sunmaster Products, Inc.](#), 115 Wash. 2d 498, 798 P.2d 808 (1990).
- 3 Wash.—[State v. Ramer](#), 151 Wash. 2d 106, 86 P.3d 132 (2004).
- 4 Wyo.—[BAC v. BLM](#), 2001 WY 83, 30 P.3d 573 (Wyo. 2001).
- 5 Va.—[Shepherd v. Davis](#), 265 Va. 108, 574 S.E.2d 514 (2003).

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